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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CITY BAY CAPITAL LLC,

Plaintiff,

v.

BH&G HOLDINGS, LLC, *et al.*,

Defendants.

Case No. 2:21-cv-01790-RFB-EJY

**STIPULATION TO EXTEND
DISCOVERY DEADLINES
(Fifth Request)**

Pursuant to Fed. R. Civ. P. 26(f) and Local Rule 26-4, City Bay Capital LLC (“*Plaintiff*”), by and through its attorneys of record, Nicholas J. Santoro, Esq. and Jason D. Smith, Esq. of the law firm Santoro Whitmire and Daniel Wotman, Esq. of the law firm Wotman Law, Defendants BH&G Holdings, LLC, BH&G Enterprises LLC, Green Mesa Capital LLC, MGP Apex 582 Development, LLC; MGP Apex 582 Guaranty, LLC; MGP Apex 582, Multifamily, LLC, MultiGreen Properties, LLC, and Tru Development LLC (collectively, “*Defendants*”), by and through their attorneys of record, Karen L. Bashor, Esq. and I-Che Lai, Esq. of the law firm Wilson

1 Elser Moskowitz Edelman & Dicker LLP and Bethany W. Kristovich, Esq. and James R.
 2 Salzmman, Esq. of the law firm Munger, Tolles & Olson LLP, hereby stipulate to amend the
 3 November 28, 2022 Scheduling Order (ECF No. 45) to extend the January 19, 2022 jurisdictional
 4 discovery deadline and the discovery schedule by forty five (45) days while the parties continue
 5 to finalize settlement negotiations.

6 **I. STATEMENT OF DISCOVERY COMPLETED**

7 On June 17, 2022, the parties submitted a Stipulated Discovery Plan and Scheduling Order,
 8 following the parties' participation in the Rule 26(f) conference. (ECF No. 26). After review, the
 9 Court issued the operative discovery plan. (ECF No. 27). This Court also previously ordered that
 10 jurisdictional discovery be completed on or before December 5, 2022 (ECF No. 43). Since then,
 11 the parties have engaged in discovery as outlined below:

- 12 1. Plaintiff served several third parties with subpoenas *duces tecum*;
- 13 2. Defendants produced a Supplemental Declaration of Randy C. Norton and
 14 documents in furtherance of jurisdictional discovery, which was ordered by this
 15 Court on June 7, 2022 (*see* ECF No. 25);
- 16 3. Plaintiff served in furtherance of jurisdictional discovery a subpoena to testify at a
 17 deposition in a civil action and a subpoena *duces tecum* upon Ricardo Alberto
 18 Melero, with Mr. Melero's appearance and production of documents scheduled for
 19 September 30, 2022, at 10:00 AM in Orlando, Florida. Due (initially) to Hurricane
 20 Ian's impact and the parties' engagement in settlement negotiations, Mr. Melero's
 21 deposition was postponed.
- 22 4. Plaintiff prepared and engaged a process server to serve a revised subpoena to
 23 testify at a deposition in a civil action and a subpoena *duces tecum* upon Ricardo
 24 Alberto Melero, with Mr. Melero's appearance and production of documents
 25 scheduled for December 5, 2022, at 10:00 AM in Orlando, Florida. Due (more
 26 recently) to the ongoing settlement discussions between the parties, including the
 27 transmittal of written settlement documents, the parties vacated the December 5

subpoena and subpoena *duces tecum* and continue to work toward resolution of this dispute.

II. DISCOVERY THAT REMAINS TO BE COMPLETED

The parties anticipate the following discovery:

1. The parties may need to negotiate a protective order to facilitate the production of potential confidential documents. The parties may need to meet and confer regarding outstanding issues regarding the production of documents and written discovery responses and, if necessary, make appropriate motions to the Court;

2. Additional written discovery requests may also be required. Such discovery may include supplemental discovery requests, including requests for admissions and interrogatories;

3. Depositions of Plaintiff's witnesses;

4. Depositions of Defendants' witnesses;

5. Depositions of the parties;

6. Disclosure of expert witnesses and depositions of expert witnesses;

7. Additional third-party subpoenas *duces tecum* and for depositions (as needed); and

8. Potential motion practice to compel the production of documents (or otherwise unsatisfactory discovery responses), may also be needed.

III. THE REASONS WHY THE REMAINING DISCOVERY HAS NOT BEEN COMPLETED

This is the parties' fifth request for an extension of the discovery deadlines (the first three requests related only to an extension of the jurisdictional discovery deadline—to be cautious, the parties identified the most recent request as their fourth request for an extension of deadlines, though it was the first time the parties sought to continue all discovery dates). This request is only the second request to continue the complete set of discovery deadlines. Good cause exists for amending the jurisdictional discovery deadline of January 19, 2022, and the discovery schedule by forty-five (45) days. The parties continue to progress in settlement discussions which could be dispositive of the entire case, and they have not wanted to waste resources on potentially

unnecessary discovery during this process. From the date of the parties' last request for an extension of time, those settlement discussions have progressed. More specifically, the parties continue negotiating a settlement agreement and anticipate having same finalized shortly.

IV. ~~PROPOSED~~ DISCOVERY SCHEDULE

Except as indicated, the parties agree to the following proposed new deadlines:

EVENT	CURRENT DEADLINE	PROPOSED NEW DATE
Jurisdictional Discovery (pursuant to ECF No. 43)	1/19/2023	3/10/2023
Discovery Cutoff	6/1/2023	7/17/2023
Amending Pleadings and Adding Parties	3/3/2023	4/18/2023
Initial Experts Disclosures/Reports	4/3/2023	5/18/2023
Rebuttal Experts Disclosures/Reports	5/4/2023	6/19/2023
Dispositive Motions	7/3/2023	8/18/2023
Joint Pretrial Order	7/31/2023, or 30 days after resolution of dispositive motions or further order of the Court	9/15/2023, or 30 days after resolution of dispositive motions or further order of the Court

This is the fourth request for an extension of time to the jurisdictional discovery deadline, and the fifth overall request for any extension of time. This request is not sought for delay or any other improper purpose.

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The parties respectfully submit that the reasons, facts, and circumstances set forth above constitute good cause for the extension. This extension will not prejudice any of the parties, and no trial date has been scheduled.

Dated this 5th day of January 2023.

/s/ Jason D. Smith

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Dated this 5th day of January 2023.

/s/ Bethany W. Kristovich

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IT IS SO ORDERED:


UNITED STATES MAGISTRATE JUDGE

Dated: January 5, 2023